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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,113	06/26/2003	Brien Lloyd Fulton	202-1149	3378
33066	7590	06/21/2004	EXAMINER	
RICHARD M. SHARKANSKY PO BOX 557 MASHPEE, MA 02649			HOANG, JOHNNY H	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/604,113	FULTON, BRIEN LLOYD
	<b>Examiner</b>	<b>Art Unit</b>
	Johnny H. Hoang	3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 26 June 2003.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-6 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 26 June 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date *June 26, 2003*.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Graves, Jr. (US 5,445,126).

Regarding claim 1, the reference of Graves, Jr. discloses a control system which control fuel delivery to a throttle controlled-engine including the following subject matters:

a signal generator (26) generating an unmodified fuel demand signal based on an accelerator pedal position (col. 4, lines 24-34); and

a controller (10) for producing a modified fuel demand signal based on said unmodified fuel demand signal and a bias value, said bias value being a predetermined offset from a base fuel demand signal, said base fuel demand signal being sufficient to maintain the engine in an idle condition, said controller delivering an amount of fuel to said engine based on a greater of said modified fuel demand signal and said base fuel demand signal (see abstract, col. 4, line 54 through col. 5, line 33, and col. 7, lines 10-55).

Regarding claim 3, as discussed in claim 1.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves, Jr. in view of Takeuchi et al. (US 5,313,923). The reference of Graves, Jr. discloses the claimed invention except for the controller is a semiconductor chip. The reference of Takeuchi et al discloses the semiconductor device which controls to deenergized the fuel pump (col. 2, lines 9-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the semiconductor being operating as a controller to prevent any obstacle to the operation of the fuel pump.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graves, Jr. The reference of Graves, Jr. discloses the claimed invention except for providing a first, second and third fuel demand signals. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the electronic accelerator pedal (26) producing the multiple of the fueling levels for the engine (as above discussions), since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (CCPA 1955).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graves, Jr. in view of Paielli. The reference of Graves, Jr. discloses the claimed invention except for a computer storage medium having a program encoded therein for controlling fuel delivery to an engine, the reference of Paielli discloses the program execution as it relates to the non-disruptive operation of fuel delivery while programming one or more fuel delivery maps or tables (see Figs. 26, 27A, and 27B; and col. 11, lines 38-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a computer storage medium having a computer program as suggested by Palielli into the system of Graves, Jr. for the purpose of keeping the operation at the steady state.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The copies of U.S Patent are provided.

Fleischer (US 4,120,373), and Stocker et al (US 4,660,519).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny H. Hoang whose telephone number is (703) 308-2782. The examiner can normally be reached on Monday - Thursday (7:00Am-5:30Pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHH  
June 17, 2004

Johnny H. Hoang  
Examiner  
Art Unit 3747

*Willis R. Wolfe*  
Willis R. Wolfe  
Primary Examiner  
Art Unit 3747